

Ray May

By Michael Dorman

SPECIAL CORRESPONDENT

A Tennessee appeals court ruled Friday that James Earl Ray can continue trying to produce evidence to show his innocence in the assassination of the Rev. Martin Luther King Jr.

The decision in Jackson, Tenn., came after King's son Dexter made a surprise appearance before the court to urge a full-blown trial for Ray.

The state Court of Criminal Appeals narrowly rejected a motion by prosecutors that would have blocked further judicial consideration of Ray's innocence claims. But the judges ruled that, as charged by the prosecutors, two Memphis judges have overstepped their authority in the case.

Judge Joe Brown has been considering a second round of ballistics tests on the rifle authorities say Ray used to kill King. Judge John Colton Jr. wanted to appoint a special investigator to subpoena witnesses and take sworn testimony about a possible murder conspiracy in King's death.

The court said Colton would be "acting without authority" in making the appointment. Brown may order new tests, but he also acted improperly in order-

NEWSDAY, SATURDAY, AUGUST 30, 1997

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ing the FBI to turn over bullets it tested from Ray's rifle in 1968, the court said.

"A judge is a fair and impartial adjudicator, not an investigator," the court said. "In this regard we find that Judge Joseph D. Brown Jr. has crossed this line. Upon review of the record as a whole, we are disturbed by the trial judge's handling of these procedures."

Dexter King argued, as he has in the past, that a full trial for Ray would help clear up questions about a possible conspiracy in the assassination. "I



Dexter King at hearing

think the state has every obligation to pursue justice until justice prevails," King said after his court appearance. "The state continues to be obstructionist."

Prosecutors argued that both Brown and Colton were violating the state constitution's separation-of-powers provisions by assuming duties reserved for prosecutors. They said that Ray has exhausted his appeals in Tennessee courts and that the judges have no authority to deal with claims that he was set up as

a patsy in the assassination. "Neither Judge Brown nor Judge Colton has the authority to issue these orders," said Assistant District Attorney General Kathy Morante.

Ray's lawyers responded that the prosecutors were afraid of more investigation. "What the local district attorney may fear is that ultimate testing might eliminate the alleged murder weapon as the weapon that killed Dr. Martin Luther King Jr.," their brief said.

Mike Roberts, a law professor Colton wanted to appoint as his special investiga-

tor, said Colton's court should have jurisdiction because it is where Ray entered a guilty plea in 1969 and was sentenced to 99 years in prison. But others counter that another judge presided over that court in 1969. In asking the appeals court for permission to proceed with an investigation, Roberts claimed he had been approached "by three persons claiming to have relevant and credible evidence concerning the murder."